

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	4:09CR3086
	)	
V.	)	
	)	
PEORIA DASHANE BRYE,	)	MEMORANDUM
	)	AND ORDER
Defendant.	)	
_____	)	

The defendant seeks a reduction in his sentence due to the retroactive application of the “Crack Cocaine Amendment” to the federal Sentencing Guidelines implementing the Fair Sentencing Act of 2010(FSA), effective November 1, 2011. He was sentenced to the statutory minimum sentence of 120 months on May 20, 2010. Accordingly, he is not entitled to a reduction because the FSA did not retroactively change the requirement that the defendant serve the statutory minimum sentence. *See, e.g., United States v. Sidney*, 648 F.3d 904, 909-910 (8<sup>th</sup> Cir. 2011) (FSA’s change in amounts necessary to trigger the statutory minimum sentence were not retroactive); *United States v. Payton*, 636 F.3d 1027, 1049 (8<sup>th</sup> Cir. 2011) (because the FSA was not retroactive, district court lacked the authority to reduce sentence below the congressionally-mandated statutory minimum). Accordingly,

IT IS ORDERED that the motion to reduce sentence (filing no. 77) is denied. The Clerk shall provide a copy of this Memorandum and Order to the defendant, the Federal Public Defender and to Mike Norton, Supervisory United States Probation Officer.

DATED this 9<sup>th</sup> day of November, 2011.

BY THE COURT:

*Richard G. Kopf*  
United States District Judge